

## CHAPTER 2. PROJECT UNDERWRITING

2-1.GENERAL. Underwriting procedures must be followed to assure the quality of each project with respect to location, design, rentability, and construction.

A.Before issuing a commitment for a project mortgage, the MHD must:

1.Accept/approve the conclusions required by each underwriting discipline.

2.Determine whether the mortgage risk is acceptable and that the project meets the requirements of the appropriate handbook, and regulations.

B.The MHD must keep permanent files of documents and supporting data of all administration processing and underwriting conclusions. Also referred to as FO Docket.

2-2.APPLICATION STAGES. The application and processing may be divided into three stages:

A.Site Appraisal and Market Analysis (SAMA) - new construction projects.

1.Determine market need for the proposed project by type of unit, size, number of rooms, etc.

2.Estimate the obtainable rents and value of the site fully improved; or

B.Feasibility (substantial rehabilitation projects).

1.Do a basic underwriting analysis, except for credit and financial analysis.

2.Establish economic feasibility, including type and extent of required rehabilitation, estimated post-rehabilitation replacement cost, and "As-Is" value of the property, project income, etc. The analysis is generally comprehensive enough to obviate the need for further review before the conditional or firm commitment stages.

(2-2) C. Conditional Commitment.

1. Analyze proposal and its economics including project schematics drawings and outline specifications.

2. Examine credit and financial capacity of principals and general contractor.

Note: The Conditional Commitment stage is proposed for elimination; this change will become effective 30 days after publication of the final rule.

D. Firm Commitment.

1. Review any updated information and final contract documents to confirm whether they agree with findings made in earlier processing stages and meet all requirements for a firm commitment.

2. Firm commitment may be issued to insure construction advances or to insure on completion.

E. Combined Stages. HUD may accept a single combined application and process it directly to firm commitment. If, during processing, HUD finds that the material submitted is insufficient to issue a firm commitment, HUD may issue a SAMA or conditional commitment stating its findings. A mortgagee is not required at the SAMA or Feasibility stage.

Note: A more detailed explanation of all processing stages will be found in Chapter 4 - "Project Processing" of this Handbook.

2-3. CHANGES IN PROPOSALS.

A. Significant Deviation. When a mortgagor's proposal changes at any stage through firm commitment, it must be determined if it is a significant deviation from the original concept. If so, the application should be rejected. HUD can require a new application and fee if the mortgagor wishes to proceed.

B. Change in Sponsorship. If there is a change in sponsorship of the individuals/firms relied on for financial capacity and the remaining principals do not demonstrate the capacity to meet the financial requirements of the project:

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(2-3) 1. At any stage through the firm commitment, this is considered a significant deviation from the original

concept and generally cause for rejection of an application.

2.Subsequent to the issuance of the firm commitment, but before initial endorsement occurs, this is considered a significant deviation of the application for which the commitment was issued and may be cause for declaring the firm commitment null and void.

C.Allowable Changes. It is not a significant deviation if the change meets the same program objectives. The items below may be changed by the mortgagor or lender in a counterproposal (see paragraph D) and a new application or fee cannot be required (but changes must be processed to determine feasibility).

1.Rents (unless the change in rent changes the market to be served);

2.Unit number, mix, or size;

3.Number of floors or buildings with the same building type (Part A of Forms HUD-92013 and HUD-92264);

4.Deletion or substitutions of similar buildings in a rehabilitation proposal if necessary for feasibility, and does not alter the basis of the environmental review of the original proposal;

5.Parking requirements;

6.Gross residential or commercial area (it is a significant deviation if rents, unit number or gross project area change as described in paragraph D.5. below);

7.Equipment and services included in rent;

8.Expenses;

9.Taxes;

10.Replacement cost;

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(2-3) 11. Market price of site; and

12.Cash requirements.

D.Rejection. The changes below are generally cause for

rejection of an application.

1.Substantial change in mortgagor (e.g., primary principals);

2.Location;

3.Building type (from low to high-rise or vice versa, from walk-up to town house, etc.);

4.Market to be served;

5.Rents, unit number or gross project area changes great enough to affect market potential, (i.e., 5 percent), and/or require a new market analysis.

6.Change in Section of the Housing Act to an entirely different program.

E.Counterproposal by HUD.

1.HUD may not require substantial changes that deviate from the concept agreed to in a previous processing stage except to insure conformity with that concept.

2.HUD may counter-propose in writing the allowable changes in paragraph C only if required for feasibility. The mortgagor must agree in writing to a counterproposal before proceeding further.

2-4.FEES AND CHARGES. There are maximum fees and charges that can be collected by HUD for processing an application.

- R        - A processing fee not to exceed \$3.00 per \$1,000 of the amount of mortgage requested. This fee can be collected in three stages, in two stages, or at one time, for a single combined application.

Note: Processing fees have been proposed to increase to \$5.00 per \$1,000 of the requested mortgage amount, any increase will become effective 30 days after publication of the final rule.

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2-5.DIRECTOR OF MULTIFAMILY HOUSING (MHD). The MHD is the person responsible to the FO Manager for multifamily processing. He/she bears responsibility for the expeditious processing of project proposals, for the maintenance of quality processing to evaluate underwriting risks, and for making final underwriting decisions.

2-6.AUTHORITY TO MODIFY CONCLUSIONS. The following authority is

given to the MHD: To modify the conclusions of underwriting processors and recommendations of section chiefs, including, but not limited to the number, size and composition of units, rent estimates, expense estimates, capitalization rates and values, land values, cost estimates, maximum mortgage amounts and cash requirements. Modifications of conclusions under this authority must be justified by factual data and be so documented in the FO and Washington dockets and attached to the applicable processing document.

2-7.DATA DEVELOPMENT AND LIBRARY MAINTENANCE. It is essential that adequate banks of market, cost, valuation and mortgage credit data be available in every FO if projects are to be processed within the assigned target dates. Attention must be given to the continuous updating of data in order to maintain current data banks. This is of the utmost importance and should not be overlooked.

A.A prerequisite to the effective screening of sponsor proposals at the Initial Interview is the prior accumulation of a reservoir of adequate market data. Data accumulated through market studies and outside contacts with buyers, sellers, real estate brokers, property managers, mortgage lenders and other sources, as well as contractors, builders, suppliers, etc., are vital to the screening process. The data will identify the type of units, rentals, and services and amenities most likely to be readily absorbed in the prospective market.

B.It is imperative that all available data from Asset Management (AM) be available and utilized in screening sponsor proposals. Underwriting staff must actively solicit from AM staff all available information on operating expenses, taxes, occupancy, rent-up times and any other information of relevance in the determination of project feasibility. Such data must play a prominent role in influencing underwriting decisions.

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## 2-8. UNDERWRITING AND TECHNICAL SPECIALISTS.

A.HUD Staff. Land Planning personnel, environmental specialists and specialized engineers in the FO may be used in the analysis of specific proposals when the need arises as determined by the MHD. Their services are not expected to be needed for all projects or at all stages of any one project. The activities of these specialists are to be concentrated on the training of the underwriting staff.

B.Delegated Processors and Technical Discipline Contractors.

The role and function of delegated processors and technical discipline contractors are discussed in detail in Chapter 4, paragraphs 4-5 and 4-6 of this Handbook.

2-9.UNDERWRITING QUALITY CONTROL. The primary objective of the HUD review is to ensure sound underwriting of the project. FOs are expected to exercise prudent judgment in their analysis and recommendations. The underwriting package should include all documentation relative to each technical discipline, including all data, worksheets and forms used in arriving at their recommendations.

2-10.COMMITMENT TERMS AND EXTENSIONS. All extensions must be requested in writing by the mortgagee and granted in writing by HUD.

A.Conditional Commitment. On a conditional commitment, the initial term cannot exceed 120 days. The MHD must ensure that rents, costs and expenses are current to grant extensions.

B.Firm Commitment to Insure Advances. The initial term cannot exceed 60 days. If necessary the MHD may grant extensions. In all such cases, the basis for the extension must be set forth in the project docket and the MHD must ensure that rents, costs and expenses are current.

1.It is the responsibility of each Office to assure that prolonged extensions or commitments do not affect the soundness of the underwriting decisions upon which the original issuance of a commitment was based. For this reason, any extension beyond the FO discretionary periods set forth above must be accompanied, at a minimum, by the following documentation:

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- a. the date of the original commitment;
  - b.the current date of expiration of the commitment;
  - c.the extenuating circumstances which justify additional extension of the commitment including a brief description of the permanent financing arrangement;
  - d.an estimate of the time needed to bring the case to a closing; and
  - e.the MHD's statement that the requested delay is not likely to change significantly the

underwriting data on which the commitment was based or to undermine the feasibility of the project due to a change in the market, inflation or other cost-affecting factors.

2.If initial endorsement does not occur within the original term or an approved extension period, the commitment will expire.

- C. Reopening an Expired Commitment. HUD may reopen an expired commitment (or a reject, if the problems causing rejection have been corrected) if the mortgagor submits a new application within 90 days of the expiration with updated exhibits and a fee not to exceed \$0.50 per \$1,000 of the firm commitment mortgage amount.
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- 2-11. ENVIRONMENTAL PROCEDURE. HUD is required to undertake an environmental review of each insured mortgage application at the initial stage of processing. Except in the case of "categorically excluded" projects, this will require HUD staff to complete an Environmental Assessment (Form HUD-4128) and either make a Finding of No Significant Impact (FONSI) to be signed by the MHD or prepare an Environmental Impact Statement. If a project is "categorically excluded" from Environmental Assessment under 24 CFR Part 50, HUD staff must complete the Compliance Findings on Form HUD-4128.1 to be signed by the MHD." This must be done prior to the first HUD approval action (SAMA-Feasibility-Reservation, etc.), or commitment.

Regulations are contained in 24 CFR Parts 50 and 51 and operating details and instructions are contained in Handbook 4010.1, 1390.2 and 1390.4.

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2-12.PROCEDURES FOR PREVIOUS PARTICIPATION REVIEW. Principals participating in a planned or existing multifamily project must first disclose all past participation in HUD programs (except home mortgage) and the nature of their proposed interest. (See Handbook 4065.1, "Previous Participation Handbook," Chapter 3, "Eligibility Requirements" and Form HUD-92530 for further details.)

2-13.AFFIRMATIVE FAIR HOUSING MARKETING (AFHM) PLAN. The mortgagor must submit an AFHM Plan to HUD FO with its first application for commitment submission.

-(See Appendix 4 of Handbook 8025.1 REV-1, Implementation of Affirmative Fair Housing Marketing Requirements Handbook,

for AFHM Plan, Form HUD-935.2.)

-The FO will not issue a commitment without approval of the AFHM Plan.

-HUD must advise the mortgagor of its responsibilities under the plan, including reporting requirements. Details of plan implementation are in Handbook 8025.1 REV-1.

## 2-14. FAIR HOUSING ACT.

A.Background. During the past two decades, Congress has enacted three major laws that have an impact in housing programs and activities which receive financial assistance from HUD. These laws are The Architectural Barriers Act (ABA) of 1968; Section 504 of the Rehabilitation Act of 1973; and Title VIII of the Civil Rights Act of 1968, as amended (commonly known as the Fair Housing Amendments Act of 1988).

B.The Architectural Barriers Act (ABA) of 1968. The ABA, 42 U.S.C. 4151-4157 provides that "certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped." The ABA applies to new construction under the low income public housing program and to rehabilitation carried out with the Comprehensive Improvement Assistance Program (CIAP) funds. Housing subject to the ABA must comply with the Uniform Federal Accessibility Standards (UFAS), which is published jointly by four standard setting agencies designated in the Act (the Department of Defense, HUD, the General Services Administration, and the U.S. Postal Service). HUD adopted UFAS at 24 CFR Part 40, effective October 4, 1984.

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(2-14) C. Section 504 of the Rehabilitation Act of 1973. Section 504 provides for nondiscrimination on the basis of handicap in any program or activity receiving Federal financial assistance. HUD promulgated regulations implementing Section 504 on June 2, 1988, and they became effective July 11, 1988. Beyond the nondiscriminatory mandate, HUD's Section 504 regulation prescribes certain requirements which must be met under various types of housing programs, such as new construction and existing housing substantial rehabilitation and alterations. For example, Section 8.22 of this regulation sets forth the requirements for new construction of housing facilities. Section 8.22(b) provides: ". . . a minimum of 5 percent of the total dwelling units or at least one unit in a multifamily housing, whichever is greater, shall be made accessible for persons with mobility impairments." A unit that is on an



accessible route and otherwise in compliance with the standards set forth in Section 8.32 is accessible for the purpose of this section. An additional 2 percent of the units (but not less than one unit) in such a project shall be accessible for persons with hearing or vision impairments.

D.The Fair Housing Amendments Act of 1988 (24 CFR 1000.205) extended coverage of Title VIII of the Fair Housing Act of 1968 to prohibit discriminatory housing practices based on handicapped and familial status, as well as authorizing stronger enforcement procedures and more remedies for successful complaints. Section 804(b)(3)(c) provides that covered multifamily dwellings (meaning dwellings in buildings with four or more units served by one or more elevators and ground floor units in other buildings with four or more units) available for first occupancy on or after March 13, 1991, be designed and constructed with certain accessibility requirements. These specific requirements are:

1.Public and common areas should be readily accessible and usable by handicapped persons.

2.All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons and persons in wheelchairs.

3.All premises within multifamily dwelling units contain the following features of adaptable design:

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(2-14)                      a.    An accessible route into and through the dwelling unit;

                                 b.Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

                                 c.Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower stall and shower seat where such facilities are provided; and

                                 d.Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

E.HUD published on March 6, 1991, the Final Fair Housing Accessibility Guidelines (FHAG) to provide technical guidance on the accessibility requirements of the Fair

Housing Act as described above. The Guidelines are, as their name suggests, only guidelines, not regulations or minimum requirements. The guidelines consist of recommended design specifications for compliance with the specific accessibility requirements of the Fair Housing Act. The final Guidelines provide builders with a safe harbor that illustrates acceptable methods of compliance with the Act. Compliance with the American National Standards for Building and Facilities (ANSI A117.1-1986) also will satisfy the access requirements of the Act, as may alternative standards that achieve compliance with the Act's accessibility requirements.

2-15. INTERGOVERNMENTAL REVIEW REQUIREMENT.

A.Applicant Action. Only Applications for insurance of advances on projects for new construction and substantial rehabilitation, involving change in land use, project density or conversion from rental to cooperative or condominium housing require intergovernmental review. Applications are required to request the Intergovernmental Review from the State Single Point of Contact (SPOC) (HUD does not initiate this review). This request should be made prior to the initial submission to HUD and include copies of:

- 1.Completed SF 424;
- 2.Completed page 1 of HUD-92013; and
- 3.Site plan.

(2-15) B. Applicant's Submission. The Applicant must provide to HUD a Certification of the date the intergovernmental review was requested and a copy of the SF 424 sent to the SPOC.

2-16. MARKET ANALYSIS REVIEW.

- A. The Field Office is responsible for making an independent determination of whether there is a market for the units in each proposal. The Economic and Market Analysis Staff (EMAS) conducts this review to determine:
1. If there is sufficient market demand for number of units at the proposed rents, and
  2. That the units will not adversely impact existing housing in the market area.
- B. The review must include a recommendation of approval or disapproval on the basis of market considerations.

Where the recommendation is to disapprove the proposal because of insufficient demand, the market review may include a suggested counterproposal, if one is considered feasible, that modified the number of units, the bedroom size mix, or the rent levels.

The market review may also include an advisory opinion on characteristics of the proposal that will have a significant bearing on its market prospects.

- C. All SAMA commitments and Feasibility letters and commitments must contain a condition specifying that the market analysis will be reviewed annually if the project has not reached initial endorsement. The updated market review may result in reduction of the number of units or termination of the commitment at its expiration date.

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2-17. PROJECT APPROVAL. After determining that a project is acceptable for insurance, the MHD must include a signed statement in the Washington and FO dockets that:

- A. The project meets sound underwriting criteria in all technical disciplines.
- B. The project conforms to all statutory, regulatory and handbook requirements.
- C. Describes the significant factors both positive and negative.
- D. Explains any changes or adjustments to the underwriting recommendations made by the technical divisions and the reasons for them, including any documentation supporting such changes.

2-18. FIRE SAFETY REQUIREMENTS. Section 106 of the Fire Administration Authorization Act of 1992 (Public Law 102-522), commonly referred to as the Federal Fire Safety Act of 1992 (the Act), amended the Fire Prevention and Control Act of 1974. It provides fire protection standards for 3 different categories of Federally-assisted housing. See Paragraph 1-7 of HUD Handbook 4460.1 REV-2 CHG-2.